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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,116	12/21/2001	Rod Walsh	4208-4041	7018
27123	7590	03/28/2008		
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			EXAMINER VU, THONG H	
			ART UNIT 2619	PAPER NUMBER
			NOTIFICATION DATE 03/28/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOPatentCommunications@Morganfinnegan.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/032,116	<b>Applicant(s)</b> WALSH ET AL.	
	<b>Examiner</b> Thong H. Vu	<b>Art Unit</b> 2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 24-65 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-65 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

1. Claims 24-65 are pending.

***Response to Arguments***

2. Applicant's arguments, see pages 2-4, filed 2/19/08, with respect to the rejection(s) of claim(s) 24-65 under McCarthy have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Voit-Powell.

***Claim Rejections - 35 USC § 102***

Claims 24-34, 44-54 and 64 are rejected under 35 U.S.C. 102(e) as being anticipated by Voit et al [Voit 6,424,657].

3. Claim 24, Voit discloses A method, comprising:  
monitoring an interaction network [Voit, real-time interactive, col 17 lines 15-38];  
obtaining one or more measurement values corresponding to the monitoring of the interaction network [Voit, measuring and monitoring, col 18 line 48];  
selecting data, wherein selection is based upon one or more of the measurement values corresponding to the monitoring of the interaction network [Voit, select and transmit cells, col 17 lines 46-60; performs measuring and monitoring, col 18 lines 43-51]; and  
sending the selected data over a multicast network [Voit, multicast, col 25 lines 1-20].
4. Claim 44, Voit discloses An apparatus, comprising:  
a memory having program code stored therein; and a processor disposed in

communication with the memory for carrying out instructions in accordance with the stored program code [Voit, a switch, col 17 lines 46-60]; wherein the program code (i.e.; algorithm) [Voit, algorithm, col 17 lines 46-60], when executed by the processor, causes the processor to perform monitoring an interaction network [Voit, interactive, col 17 lines 15-38]; obtaining one or more measurement values corresponding to the monitoring of the interaction network selecting data, wherein selection is based upon one or more of the measurement values corresponding to the monitoring of the interaction network [Voit, performs measuring and monitoring, col 18 lines 43-51]; and sending the selected data over a multicast network [Voit, multicast, col 25 lines 1-23].

5. Claim 45, Voit discloses the multicast network is unidirectional as a design choice.
6. Claim 46, Voit discloses the interaction network is bidirectional as a design choice.
7. Claim 47, Voit discloses in monitoring the interaction network, a predetermined number of requests for a page are recognized, and wherein selecting the data comprises selecting a promotional file as inherent feature of data selection process.
8. Claim 48, Voit discloses the data is selected based upon number of requests for the data [Voit, select and transmit data, col 17 lines 46-60].
9. Claim 49, Voit discloses the data is selected based upon number of requests for the data that originate from a broadcast cell [Voit, broadcast, col 22 lines 34-52].

10. Claim 50, Voit discloses selecting the data comprises prediction based on normal subsequent data choice as inherent feature of selection process.

11. Claim 51, Voit discloses the data is selected based upon chance of link from requested data being followed [Voit, priority selection, col 17 lines 46-60].

12. Claim 52, Voit discloses a sponsor policy is employed [Voit, device based rule, col 18 line 1].

13. Claim 53, Voit discloses the monitoring comprises employment of a network management agent as inherent feature of monitoring process.

14. Claim 54, Voit discloses the monitoring comprises employment of a proxy [Voit, gateway router 125, Fig 7].

15. Claim 64, Voit discloses An article of manufacture comprising a computer readable medium containing program code that when executed causes an apparatus to perform:

monitoring an interaction network [Voit, real-time interactive, col 17 lines 15-38];

obtaining one or more measurement values corresponding to the monitoring of the

interaction network [Voit, performs measuring and monitoring, col 18 lines 42-51];

selecting data, wherein selection is based upon one or more of the measurement values corresponding to the monitoring of the interaction network; and sending the selected data over a multicast network [Voit, select and transmit cell, col 17 lines 46-60].

16. Claims 25-34 contain the identical limitations set forth in claims 45-54. Therefore claims 25-34 rejected for the same rationale set forth in claims 45-54.

***Claim Rejections - 35 USC § 103***

Claims 35-43,55-63 and 65 rejected under 35 U.S.C. 103(a) as being unpatentable over Voit et al [Voit 6,424,657] in view of Powell et al [Powell 2002/0073167 A1].

17. Claim 35, Voit discloses A method, comprising:  
providing, via an interaction network, one or more requests [Voit, real-time interactive, col 17 lines 15-38]; and  
receiving, over a multicast network [Voit, multicast, col 25 lines 1-20], wherein monitoring of the interaction network is performed, wherein one or more measurement values corresponding to the monitoring of the interaction network are obtained, and wherein selection of the data is based upon one or more of the measurement values corresponding to the monitoring of the interaction network [Voit, performs measuring and monitoring, col 18 lines 43-51]

However Voit does not explicitly detail selected data through a local proxy

In the same endeavor, Powell taught a multicast, unicast environment [Powell, 0034]; the system monitoring the objects and obtained by the local proxy [Powell, 0183] Therefore it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate the technique of selecting data or object through a local proxy as taught by Powell in order to utilize the monitoring process on multicast network.

Doing so would provide an improved manner of locally determining which digital content is likely to be most popular to local users.

18. Claim 55, Voit discloses An apparatus, comprising:

a memory having program code stored therein; and a processor disposed in communication with the memory for carrying out instructions in accordance with the stored program code; wherein the program code, when executed by the processor, causes the processor to perform:

providing, via an interaction network, one or more requests [Voit, real-time interactive, col 17 lines 15-38]; and receiving, over a multicast network, wherein monitoring of the interaction network is performed, wherein one or more measurement values corresponding to the monitoring of the interaction network are obtained, and wherein selection of the data is based upon one or more of the measurement values corresponding to the monitoring of the interaction network [Voit, performs measuring and monitoring, col 18 lines 43-51].

However Voit does not explicitly detail selected data through a local proxy

In the same endeavor, Powell taught a multicast, unicast environment [Powell, 0034]; the system monitoring the objects and obtained by the local proxy [Powell, 0183] Therefore it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate the technique of selecting data or object through a local proxy as taught by Powell in order to utilize the monitoring process on multicast network.

Doing so would provide an improved manner of locally determining which digital content is likely to be most popular to local users.

19. Claim 65, Voit discloses An article of manufacture comprising a computer readable medium containing program code that when executed causes an apparatus to perform:

providing, via an interaction network, one or more requests [Voit, real-time interactive, col 17 lines 15-38]; and

receiving, over a multicast network [Voit, multicast, col 25 lines 1-20], wherein monitoring of the interaction network is performed, wherein one or more measurement values corresponding to the monitoring of the interaction network are obtained, and wherein selection of the data is based upon one or more of the measurement values corresponding to the monitoring of the interaction network [Voit, performs measuring and monitoring, col 18 lines 43-51].

However Voit does not explicitly detail selected data through a local proxy

In the same endeavor, Powell taught a multicast, unicast environment [Powell, 0034]; the system monitoring the objects and obtained by the local proxy [Powell, 0183] Therefore it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate the technique of selecting data or object through a local proxy as taught by Powell in order to utilize the monitoring process on multicast network.



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Doing so would provide an improved manner of locally determining which digital content is likely to be most popular to local users.

20. Claims 36-43,56-63 contain the identical limitations set forth in claims 45-54.

Therefore claims 36-43,56-63 rejected for the same rationale set forth in claims 45-54.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong H. Vu whose telephone number is 571-272-3904. The examiner can normally be reached on 6:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on 571-272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thong H Vu/

Primary Examiner, Art Unit 2619